

Supplement IV
to the
California Special Education
Programs

A Composite of Laws
Twenty-sixth Edition 2004

Incorporating the Changes Made by Assembly Bill 2525, (Assembly Committee on Education), Chapter 896, Statutes of 2004

Effective: September 29, 2004

46200.5. (a) In the 1985-86 fiscal year, for each county office of education that certifies to the Superintendent of Public Instruction that it offers 180 days or more of instruction per school year of special day classes pursuant to Section 56364.2, the Superintendent of Public Instruction shall determine an amount equal to seventy dollars (\$70) per unit of current year second principal apportionment average daily attendance for special day classes. This computation shall be included in computations made by the superintendent pursuant to Chapter 7.2 (commencing with Section 56836) of Part 30.

- 180 Days or More

(b) For any county office of education that received an apportionment pursuant to subdivision (a) and that offered less than 180 days of instruction in the 1986-87 fiscal year, to the 2000-01 fiscal year, inclusive, and that does not provide the minimum number of instructional minutes specified in subdivision (a) of Section 46201 for that fiscal year, the Superintendent of Public Instruction shall reduce the special education apportionment per unit of average daily attendance for that fiscal year by an amount attributable to the increase received pursuant to subdivision (a), as adjusted in fiscal years subsequent to the 1985-86 fiscal year.

- Less Than 180 Days

(c) For any county office of education that receives an apportionment pursuant to subdivision (a) and that offers less than 180 days of instruction or in multitrack year-round schools a minimum of 163 days, in the 2001-02 fiscal year, or any fiscal year thereafter, the Superintendent of Public Instruction shall withhold from the county office of education's revenue limit apportionment for the average daily attendance of each affected grade level the sum of 0.0056 multiplied by that apportionment, for each day less than 180 or, in multitrack year-round schools, for each day less than 163, that the county office of education offered.

- Withholding Factor

(d) For any county office of education that received an apportionment pursuant to subdivision (a) and that offered less than 180 days of instruction as required in subdivision (a) in the 1986-87 fiscal year, to either the end of the final year of the teacher bargaining unit contract in force in that county office on January 1, 2002, inclusive, or, if no teacher bargaining unit contract was in force in that county office on January 1, 2002, to the end of the 2001-02 fiscal year, inclusive, and that provided the minimum number of instructional minutes in subdivision (a) of Section 46201.5 during all of the period applicable to the county office pursuant to this subdivision, subdivision (c) does not apply until the first fiscal year following the end of the applicable period of years.

- County Office That Received an Apportionment and Offered Less Than 180 Days of Instruction

46201.5. (a) In each of the 1985-86 and 1986-87 fiscal years, for each county office of education that certifies to the Superintendent of Public Instruction that, for special day classes pursuant to Section 56364.2, it offers at least the amount of instructional time specified in this subdivision, the Superintendent of Public Instruction shall determine an amount equal to eighty dollars (\$80) in the 1985-86 fiscal year and forty dollars (\$40) in the 1986-87 fiscal year per unit of current year second principal apportionment average daily attendance for special day classes in kindergarten and grades 1 to 8, inclusive, and one hundred sixty dollars (\$160) in the 1985-86 fiscal year and eighty dollars (\$80) in the 1986-87 fiscal year per unit of current year second principal apportionment average daily attendance for special day classes in grades 9 to 12, inclusive.

- Computation for Special
Classes

This computation shall be included in computations made by the superintendent pursuant to Article 2 (commencing with Section 56836.06) of Chapter 7.2 of Part 30.

(1) In the 1985-86 fiscal year:

(A) 34,500 minutes in kindergarten.

(B) 47,016 minutes in grades 1 to 3, inclusive.

(C) 50,000 minutes in grades 4 to 8, inclusive.

(D) 57,200 minutes in grades 9 to 12, inclusive.

(2) In the 1986-87 fiscal year:

(A) 36,000 minutes in kindergarten.

(B) 50,400 minutes in grades 1 to 3, inclusive.

(C) 54,000 minutes in grades 4 to 8, inclusive.

(D) 64,800 minutes in grades 9 to 12, inclusive.

(b) Each county office of education that receives an apportionment pursuant to subdivision (a) in a fiscal year shall, in the subsequent fiscal year, add the amount received per pupil to the county office's base special education apportionment.

- Add to Base Apportionment

(c) For each county office of education that receives an apportionment pursuant to subdivision (a) in the 1985-86 fiscal year, and that reduces the amount of instructional time offered below the minimum amounts specified in paragraph (1) of subdivision (a) in the 1986-87 fiscal year, or any fiscal year thereafter, up to and including the 2000-01 fiscal year, the Superintendent of Public Instruction shall reduce the special education apportionment for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1986-87 fiscal year special education apportionment pursuant to subdivision (b), as adjusted in the 1986-87 fiscal year and fiscal years thereafter.

- Reduction of Apportionment
When Instructional Time Is
Reduced, Including 2000-01
Fiscal Year, As Adjusted in
1986-87

(d) For each county office of education that receives an apportionment pursuant to subdivision (a) in the 1986-87 fiscal

- Reduction of Apportionment
When Instructional Time Is

year and that reduces the amount of instructional time offered below the minimum amounts specified in paragraph (2) of subdivision (a) in the 1987-88 fiscal year, or any fiscal year thereafter, up to and including the 2000-01 fiscal year, the superintendent shall reduce the special education apportionment for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1987-88 fiscal year special education apportionment pursuant to subdivision (b), as adjusted in the 1987-88 fiscal year and fiscal years thereafter.

Reduced, Including 2000-01 Fiscal Year, As Adjusted in 1987-88

(e) For each county office of education that receives an apportionment pursuant to subdivision (a) in the 1986-87 fiscal year and that reduces the amount of instructional time offered below the minimum amounts specified in paragraph (2) of subdivision (a) in the 2001-02 fiscal year, or any fiscal year thereafter, the Superintendent of Public Instruction shall withhold from the special education apportionment for the average daily attendance of each affected grade level, the sum of that apportionment multiplied by the percentage of the minimum offered minutes at that grade level that the county office of education failed to offer.

- Reduction of Apportionment When Instructional Time Is Reduced, Including 2001-02 Fiscal Year or Any Fiscal Year Thereafter

47646. (a) A charter school that is deemed to be a public school of the local educational agency that granted the charter for purposes of special education shall participate in state and federal funding for special education in the same manner as any other public school of that local educational agency. A child with disabilities attending the charter school shall receive special education instruction or designated instruction and services, or both, in the same manner as a child with disabilities who attends another public school of that local educational agency. The agency that granted the charter shall ensure that all children with disabilities enrolled in the charter school receive special education and designated instruction and services in a manner that is consistent with their individualized education program and is in compliance with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and implementing regulations.

- Special Education Funding and Services

- Child with a Disability Shall Receive Instruction in Same Manner

(b) In administering the local operation of special education pursuant to the local plan established pursuant to Chapter 3 (commencing with Section 56205) of Part 30, in which the local educational agency that granted the charter participates, the local educational agency that granted the charter shall ensure that each charter school that is deemed a public school for purposes of special education receives an equitable share of special education funding and services consisting of either, or both, of the following:

- Charter School to Receive Equitable Share of Special Education Funding and Services

(1) State and federal funding provided to support special education instruction or designated instruction and services, or

both, provided or procured by the charter school that serves pupils enrolled in and attending the charter school. Notwithstanding any other provision of this chapter, a charter school may report average daily attendance to accommodate eligible pupils who require extended year services as part of an individualized education program.

(2) Any necessary special education services, including administrative and support services and itinerant services, that is provided by the local educational agency on behalf of pupils with disabilities enrolled in the charter school.

(c) In administering the local operation of special education pursuant to the local plan established pursuant to Chapter 3 (commencing with Section 56205) of Part 30, in which the local educational agency that granted the charter participates, the local educational agency that granted the charter shall ensure that each charter school that is deemed a public school for purposes of special education also contributes an equitable share of its charter school block grant funding to support districtwide special education instruction and services, including, but not limited to, special education instruction and services for pupils with disabilities enrolled in the charter school.

- Charter School to Contribute
Equitable Share of Funding

56027. "Local plan" means a plan that meets the requirements of Chapter 3 (commencing with Section 56205) and that is submitted by a school district, special education local plan area, or county office.

- Local Plan

56028. (a) "Parent," includes any of the following:

- Parent

(1) A person having legal custody of a child.

(2) Any adult pupil for whom no guardian or conservator has been appointed.

(3) A person acting in the place of a parent, including a grandparent or stepparent with whom the child lives. "Parent" also includes a parent surrogate.

(4) A foster parent if the natural parents' authority to make educational decisions on the child's behalf has been specifically limited by court order in accordance with subsection (b) of Section 300.20 of Title 34 of the Code of Federal Regulations.

(b) "Parent" does not include the state or any political subdivision of government.

56028.5. "Public agency" means a school district, county office of education, special education local plan area, charter school, or any other public agency under the auspices of the state or any political subdivisions of the state providing special education or related services to individuals with exceptional needs, and includes all public agencies listed in Section 300.22 of Title 34 of the Code of Federal Regulations.

- Public Agency

56140. County offices shall do all of the following:

(a) Initiate and submit to the superintendent a countywide plan for special education which demonstrates the coordination of all local plans submitted pursuant to Section 56205 and which ensures that all individuals with exceptional needs residing within the county, including those enrolled in alternative education programs, including, but not limited to, alternative schools, charter schools, opportunity schools and classes, community day schools operated by school districts, community schools operated by county offices of education, and juvenile court schools, will have access to appropriate special education programs and related services. However, a county office shall not be required to submit a countywide plan when all the districts within the county elect to submit a single local plan.

(b) Within 45 days, approve or disapprove any proposed local plan submitted by a district or group of districts within the county or counties. Approval shall be based on the capacity of the district or districts to ensure that special education programs and services are provided to all individuals with exceptional needs.

(1) If approved, the county office shall submit the plan with comments and recommendations to the superintendent.

(2) If disapproved, the county office shall return the plan with comments and recommendations to the district. This district may immediately appeal to the superintendent to overrule the county office's disapproval. The superintendent shall make a decision on an appeal within 30 days of receipt of the appeal.

(3) A local plan may not be implemented without approval of the plan by the county office or a decision by the superintendent to overrule the disapproval of the county office.

(c) Participate in the state onsite review of the district's implementation of an approved local plan.

(d) Join with districts in the county which elect to submit a plan or plans pursuant to subdivision (c) of Section 56195.1. Any plan may include more than one county, and districts located in more than one county. Nothing in this subdivision shall be construed to limit the authority of a county office to enter into other agreements with these districts and other districts to provide services relating to the education of individuals with exceptional needs.

(e) For each special education local plan area located within the jurisdiction of the county office of education that has submitted a revised local plan pursuant to Section 56836.03, the county office shall comply with Section 48850, as it relates to individuals with exceptional needs, by making available to agencies that place children in licensed children's institutions a copy of the annual service plan adopted pursuant to paragraph (2) of subdivision (b)

- Duties

- Countywide Plan

- Approve or Disapprove Proposed Local Plan

- Submit Approved Local Plan to State Superintendent

- Return Disapproved Plan to District

- Local Plan Implementation Approval

- State Onsite Review

- Join with Districts to Submit Plan

- Make Information Available to Other Agencies Placing Individuals in LCIs

of Section 56205.

56195. Each special education local plan area, as defined in subdivision (d) of Section 56195.1, shall administer local plans submitted pursuant to Chapter 3 (commencing with Section 56205) and shall administer the allocation of funds pursuant to Chapter 7.2 (commencing with Section 56836).

- SELPA Shall Administer Local Plans and Allocation of Funds

56195.1. The governing board of a district shall elect to do one of the following:

- Local Plan Options

(a) If of sufficient size and scope, under standards adopted by the board, submit to the superintendent a local plan for the education of all individuals with exceptional needs residing in the district in accordance with Chapter 3 (commencing with Section 56205).

- Sufficient Size and Scope

(b) In conjunction with one or more districts, submit to the superintendent a local plan for the education of individuals with exceptional needs residing in those districts in accordance with Chapter 3 (commencing with Section 56205). The plan shall include, through joint powers agreements or other contractual agreements, all the following:

- Multidistricts

(1) Provision of a governance structure and any necessary administrative support to implement the plan.

- Governance Structure

(2) Establishment of a system for determining the responsibility of participating agencies for the education of each individual with exceptional needs residing in the special education local plan area.

- Education Responsibilities

(3) Designation of a responsible local agency or alternative administrative entity to perform functions such as the receipt and distribution of funds, provision of administrative support, and coordination of the implementation of the plan. Any participating agency may perform any of these services required by the plan.

- Responsible Local Agency/
Administrative Entity

(c) Join with the county office, to submit to the superintendent a local plan in accordance with Chapter 3 (commencing with Section 56205) to assure access to special education and services for all individuals with exceptional needs residing in the geographic area served by the plan. The county office shall coordinate the implementation of the plan, unless otherwise specified in the plan. The plan shall include, through contractual agreements, all of the following:

- Join with County Office

(1) Establishment of a system for determining the responsibility of participating agencies for the education of each individual with exceptional needs residing in the geographical area served by the plan.

- Education Responsibilities

(2) Designation of the county office, of a responsible local agency, or of any other administrative entity to perform functions such as the receipt and distribution of funds, provision of administrative support, and coordination of the implementation of the plan. Any participating agency may perform any of these

- Responsible Local Agency/
Administrative Entity

services required by the plan.

(d) The service area covered by the local plan developed under subdivision (a), (b), or (c) shall be known as the special education local plan area.

(e) This section does not limit the authority of a county office and a school district or group of school districts to enter into contractual agreements for services relating to the education of individuals with exceptional needs. Except for instructional personnel service units serving infants, until a special education local plan area adopts a revised local plan approved pursuant to Section 56836.03, the county office of education or school district that reports a unit for funding shall be the agency that employs the personnel who staff the unit, unless the combined unit rate and support service ratio of the nonemploying agency is equal to or lower than that of the employing agency and both agencies agree that the nonemploying agency will report the unit for funding.

(f) A charter school that is deemed a local educational agency for the purposes of special education pursuant to Article 4 (commencing with Section 47640) of Chapter 6 of Part 26.8 shall participate in an approved local plan pursuant to subdivision (a), (b), or (c). A charter school may submit written policies and procedures to the department for approval by the State Board of Education, which establish compliance with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), and implementing regulations, either individually, pursuant to subdivision (a) or with other charter schools pursuant to subdivision (b). The State Board of Education shall review these policies and procedures, based on the criteria established pursuant to Section 56100. Upon approval by the State Board of Education, these written policies and procedures shall become the local plan.

56361. The continuum of program options shall include, but not necessarily be limited to, all of the following or any combination of the following:

(a) Regular education programs consistent with subparagraph (A) of paragraph (5) of subsection (a) of Section 1412 of Title 20 of the United States Code and implementing regulations.

(b) A resource specialist program pursuant to Section 56362.

(c) Designated instruction and services pursuant to Section 56363.

(d) Special classes pursuant to Section 56364.2.

(e) Nonpublic, nonsectarian school services pursuant to Section 56365.

(f) State special schools pursuant to Section 56367.

(g) Instruction in settings other than classrooms where specially designed instruction may occur.

- SELPA Definition

- Contractual Agreements

- Charter School Participation in
Local Plan; Policies and
Procedures

- Continuum of Program Options

- Regular Education Programs

- Resource Specialist Program

- Designate Instruction and Service

- Special Classes
- Nonpublic, Nonsectarian School
Services
- State Special Schools

- Instruction in Other Settings

(h) Itinerant instruction in classrooms, resource rooms, and settings other than classrooms where specially designed instruction may occur to the extent required by federal law or regulation.

- Itinerant Instruction

(i) Instruction using telecommunication, and instruction in the home, in hospitals, and in other institutions to the extent required by federal law or regulation.

- Instruction Using
Telecommunication; Home and
Hospital; Other Institutions

56364.1. Notwithstanding the provisions of Section 56364.2, pupils with low incidence disabilities may receive all or a portion of their instruction in the regular classroom and may also be enrolled in special classes taught by appropriately credentialed teachers who serve these pupils at one or more schoolsites. The instruction shall be provided in a manner which is consistent with the guidelines adopted pursuant to Section 56136 and in accordance with the individualized education program.

- Special Classes for Pupils with
Low-Incidence Disabilities

Section 56364.5 of the Education Code is repealed.

56836.01. Commencing with the 1998-99 fiscal year and each fiscal year thereafter, the administrator of each special education local plan area, in accordance with the local plan approved by the board, shall be responsible for the following:

- SELPA Administrator
Responsibilities

(a) The fiscal administration of the annual budget plan pursuant to paragraph (1) of subdivision (b) of Section 56205 and annual allocation plan for multidistrict special education local plan areas pursuant to Section 56836.05 for special education programs of school districts and county superintendents of schools composing the special education local plan area.

- Fiscal Administration of Annual
Budget Allocation Plan

(b) The allocation of state and federal funds allocated to the special education local plan area for the provision of special education and related services by those entities.

- Allocation of State and Federal
Funds

(c) The reporting and accounting requirements prescribed by this part.

- Reporting and Accounting
Requirements

56836.03. (a) On or after January 1, 1998, each special education local plan area shall submit a revised local plan. Each special education local plan area shall submit its revised local plan not later than the time it is required to submit its local plan pursuant to subdivision (b) of Section 56100 and the revised local plan shall meet the requirements of Chapter 3 (commencing with Section 56205).

- Submission of Revised Local
Plans

(b) Until the board has approved the revised local plan and the special education local plan area begins to operate under the revised local plan, each special education local plan area shall continue to operate under the programmatic, reporting, and accounting requirements prescribed by the State Department of Education for the purposes of Chapter 7 (commencing with

- SELPA Operates Under Prior Law
Until Revised Local Plan Is
Approved by State Board

Section 56700) as that chapter existed on December 31, 1998. The department shall develop transition guidelines, and, as necessary, transition forms, to facilitate a transition from the reporting and accounting methods required for Chapter 7 (commencing with Section 56700) as that chapter existed on December 31, 1998, and related provisions of this part, to the reporting and accounting methods required for this chapter. Under no circumstances shall the transition guidelines exceed the requirements of the provisions described in paragraphs (1) and (2). The transition guidelines shall, at a minimum, do the following:

- Transition Guidelines

(1) Describe the method for accounting for the instructional service personnel units and caseloads, as required by Chapter 7 (commencing with Section 56700) as that chapter existed on December 31, 1998.

(2) Describe the accounting that is required to be made, if any, for the purposes of Sections 56030, 56140, 56156.4, 56361.5, 56362, 56363.3, 56366.2, 56366.3, 56441.5, and 56441.7.

(c) Commencing with the 1997-98 fiscal year, through and including the fiscal year in which equalization among special education local plan areas has been achieved, the board shall not approve any proposal to divide a special education local plan area into two or more units, unless the division has no net impact on state costs for special education; provided, however, that the board may approve a proposal that was initially submitted to the department prior to January 1, 1997.

- State Board Shall Not Approve Any Proposal to Divide a SELPA Unless There Is No Impact on State Costs

56836.155. (a) On or before November 2, 1998, the department, in conjunction with the Office of the Legislative Analyst, shall do the following:

- Calculation of the Incidence Multiplier for Each SELPA

(1) Calculate an "incidence multiplier" for each special education local plan area using the definition, methodology, and data provided in the final report submitted by the American Institutes for Research pursuant to Section 67 of Chapter 854 of the Statutes of 1997.

(2) Submit the incidence multiplier for each special education local plan area and supporting data to the Department of Finance.

(b) The Department of Finance shall review the incidence multiplier for each special education local plan area and the supporting data, and report any errors to the department and the Office of the Legislative Analyst for correction.

(c) The Department of Finance shall approve the final incidence multiplier for each special education local plan area by November 23, 1998.

(d) For the 1998-99 fiscal year and each fiscal year thereafter to and including the 2004-05 fiscal year, the superintendent shall perform the following calculation to determine each special education local plan area's adjusted entitlement for the incidence

of disabilities:

(1) The incidence multiplier for the special education local plan area shall be multiplied by the statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section 56836.11 for the fiscal year in which the computation is made.

(2) The amount determined pursuant to paragraph (1) shall be added to the statewide target amount per unit of average daily attendance for special education local plan area determined pursuant to Section 56836.11 for the fiscal year in which the computation is made.

(3) Subtract the amount of funding for the special education local plan area determined pursuant to paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b) of Section 56836.08, as appropriate for the fiscal year in which the computation is made, or the statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section 56836.11 for the fiscal year in which the computation is made, whichever is greater, from the amount determined pursuant to paragraph (2). For the purposes of this paragraph for the 2002-03, 2003-04, and 2004-05 fiscal years, the amount, if any, received pursuant to Section 56836.159 shall be excluded from the funding level per unit of average daily attendance for a special education local plan area. If the result is less than zero, the special education local plan area may not receive an adjusted entitlement for the incidence of disabilities.

(4) Multiply the amount determined in paragraph (3) by either the average daily attendance reported for the special education local plan area for the fiscal year in which the computation is made, as adjusted pursuant to subdivision (a) of Section 56836.15, or the average daily attendance reported for the special education local plan area for the prior fiscal year, as adjusted pursuant to subdivision (a) of Section 56826.15, whichever is less.

(5) If there are insufficient funds appropriated in the fiscal year for which the computation is made for the purposes of this section, the amount received by each special education local plan area shall be prorated.

(e) For the 1997-98 fiscal year, the superintendent shall perform the calculation in paragraphs (1) to (3), inclusive, of paragraph (d) only for the purposes of making the computation in paragraph (1) of subdivision (d) of Section 56836.08, but the special education local plan area may not receive an adjusted entitlement for the incidence of disabilities pursuant to this section for the 1997-98 fiscal year.

56836.173. (a) The department shall apportion to each special education local plan area the amount determined in this section.

- SELPA Apportionments and
Out-of-Home Funding

(b) For the 2004-05 and 2005-06 fiscal years, the amount apportioned shall be as follows:

(1) If the out-of-home care funding amount calculated for a special education local plan area is less than or equal to the amount a special education local plan area received pursuant to former Sections 56836.16 and 56836.17 for the 2002-03 fiscal year, the special education local plan area shall receive the same amount it received for the 2002-03 fiscal year. For purposes of this section, the amount of funding received by a special education local plan area for the 2002-03 fiscal year shall be based on the annual recertification of the 2002-03 fiscal year, as certified by the department in July of 2004.

(2) For special education local plan areas other than those funded through paragraph (1), special education local plan areas shall receive the amount received for the 2002-03 fiscal year plus the amount calculated in paragraph (3).

(3) For special education local plan areas other than those funded through paragraph (1), each special education local plan area shall also receive the difference between the out-of-home care funding amount for the special education local plan area and the amount received for the 2002-03 fiscal year for that special education local plan area divided by the sum of the difference between the out-of-home care funding amount and the amount received in the 2002-03 fiscal year for all special education local plan areas times the amount of funds provided for Section 56836.165 in the annual Budget Act that has not been allocated in paragraph (1) or (2).

(c) For the 2006-07 fiscal year, the amount apportioned shall be as follows:

(1) If the out-of-home care funding amount calculated for a special education local plan area for the 2006-07 fiscal year is less than or equal to the amount a special education local plan area received for the 2005-06 fiscal year, the special education local plan area shall receive the same amount it received for the 2005-06 fiscal year less 20 percent of the difference between the amount received for the 2005-06 fiscal year and the out-of-home care funding amount computed for the 2006-07 fiscal year.

(2) For special education local plan areas other than those funded through paragraph (1), special education local plan areas shall receive the amount received for the 2005-06 fiscal year.

(3) For special education local plan areas other than those funded through paragraph (1), each special education local plan area shall also receive the difference between the out-of-home care funding amount for that special education local plan area and the amount received for the 2005-06 fiscal year for that special education local plan area divided by the sum of the difference

between the out-of-home care funding amount and the amount received in the 2005-06 fiscal year for all special education local plan areas times the amount of funds provided for Section 56836.165 in the annual Budget Act that has not been allocated in paragraph (1) or (2).

(d) For the 2007-08 fiscal year, the amount apportioned shall be as follows:

(1) If the out-of-home care funding amount calculated for a special education local plan area for the 2007-08 fiscal year is less than or equal to the amount a special education local plan area received for the 2006-07 fiscal year, the special education local plan area shall receive the same amount it received for the 2006-07 fiscal year less 25 percent of the difference between the amount received for the 2006-07 fiscal year and the out-of-home care funding amount computed for the 2007-08 fiscal year.

(2) For special education local plan areas other than those funded through paragraph (1), special education local plan areas shall receive the amount received for the 2006-07 fiscal year.

(3) For special education local plan areas other than those funded through paragraph (1), each special education local plan area shall also receive the difference between the out-of-home care funding amount for that special education local plan area and the amount received for the 2006-07 fiscal year for that special education local plan area divided by the sum of the difference between the out-of-home care funding amount and the amount received in the 2006-07 fiscal year for all special education local plan areas times the amount of funds provided for Section 56836.165 in the annual Budget Act that has not been allocated in paragraph (1) or (2).

(e) For the 2008-09 fiscal year, the amount apportioned shall be as follows:

(1) If the out-of-home care funding amount calculated for a special education local plan area for the 2008-09 fiscal year is less than or equal to the amount a special education local plan area received for the 2007-08 fiscal year, the special education local plan area shall receive the same amount it received for the 2007-08 fiscal year less 33 percent of the difference between the amount received for the 2007-08 fiscal year and the out-of-home care funding amount computed for the 2008-09 fiscal year.

(2) For special education local plan areas other than those funded through paragraph (1), special education local plan areas shall receive the amount received for the 2007-08 fiscal year.

(3) For special education local plan areas other than those funded through paragraph (1), each special education local plan area shall also receive the difference between the out-of-home care funding amount for that special education local plan area and

the amount received for the 2007-08 fiscal year for that special education local plan area divided by the sum of the difference between the out-of-home care funding amount and the amount received in the 2007-08 fiscal year for all special education local plan areas times the amount of funds provided for Section 56836.165 in the annual Budget Act that has not been allocated in paragraph (1) or (2).

(f) For the 2009-10 fiscal year, the amount apportioned shall be as follows:

(1) If the out-of-home care funding amount calculated for a special education local plan area for the 2009-10 fiscal year is less than or equal to the amount a special education local plan area received for the 2008-09 fiscal year, the special education local plan area shall receive the same amount it received for the 2008-09 fiscal year less 50 percent of the difference between the amount received for the 2008-09 fiscal year and the out-of-home care funding amount computed for the 2009-10 fiscal year.

(2) For special education local plan areas other than those funded through paragraph (1), special education local plan areas shall receive the amount received for the 2008-09 fiscal year.

(3) For special education local plan areas other than those funded through paragraph (1), each special education local plan area shall also receive the difference between the out-of-home care funding amount for that special education local plan area and the amount received for the 2008-09 fiscal year for that special education local plan area divided by the sum of the difference between the out-of-home care funding amount and the amount received in the 2008-09 fiscal year for all special education local plan areas times the amount of funds provided for Section 56836.165 in the annual Budget Act that has not been allocated in paragraph (1) or (2).

(g) Beginning in the 2010-11 fiscal year, the amount provided to special education local plan areas shall be equal to the amount calculated pursuant to Section 56836.165. If the sum of the amounts for all special education local plan areas exceeds the Budget Act appropriation for this purpose, the department shall apply proportionate reductions to all special education local plan areas.

GOVERNMENT CODE:

7579.1. (a) Prior to the discharge of any disabled child or youth who has an active individualized education program from a public hospital, proprietary hospital, or residential medical facility pursuant to Article 5.5 (commencing with Section 56167) of Chapter 2 of Part 30 of the Education Code, a licensed children's institution or foster family home pursuant to Article 5 (commencing with Section 56155) of Chapter 2 of Part 30 of the

- Requirements Prior to Discharging
Disabled Child

Education Code, or a state hospital for the developmentally disabled or mentally disordered, the following shall occur:

(1) The operator of the hospital or medical facility, or the agency that placed the child in the licensed children's institution or foster family home, shall, at least 10 days prior to the discharge of a disabled child or youth, notify in writing the local educational agency in which the special education program for the child is being provided, and the receiving special education local plan area where the child is being transferred, of the impending discharge.

- Notification of Impending Discharge

(2) The operator or placing agency, as part of the written notification, shall provide the receiving special education local plan area with a copy of the child's individualized education program, the identity of the individual responsible for representing the interests of the child for educational and related services for the impending placement, and other relevant information about the child that will be useful in implementing the child's individualized education program in the receiving special education local plan area.

- Provide Receiving SELPA with a Copy of Child's IEP

(b) Once the disabled child or youth has been discharged, it shall be the responsibility of the receiving local educational agency to ensure that the disabled child or youth receives an appropriate educational placement that commences without delay upon his or her discharge from the hospital, institution, facility, or foster family home in accordance with Section 56325 of the Education Code. Responsibility for the provision of special education rests with the school district of residence of the parent or guardian of the child unless the child is placed in another hospital, institution, facility, or foster family home in which case the responsibility of special education rests with the school district in which the child resides pursuant to Sections 56156.4, 56156.6, and 56167 of the Education Code.

- Ensure That Child Receives an Appropriate Educational Placement Without Delay

(c) Special education local plan area directors shall document instances where the procedures in subdivision (a) are not being adhered to and report these instances to the Superintendent of Public Instruction.

- Document Instances Where Procedures Are Not Being Adhered To and Report To State Superintendent